

## REMARKS

Claims 2-5, 7-12, 15, 25, 29, 43-45, and 48 are pending. These claims have been amended to reflect the restriction requirement/election. Claims 6, 13-14, 16-24, 26-28, 30-42, and 46-47 have been cancelled. Basis for new independent claim 48 is original claims 1 and 8 and the specification at page 5, lines 10-12, and page 7, lines 3-5.

The Examiner has objected to Claim 36. Applicants have cancelled this claim thereby removing the objection.

Claim 7 has been rejected under 35 U.S.C. 112, second paragraph. It is the Examiner's position that there is a lack of definition of the group "substituted". Claim 7 has been amended to define "substituted".

Claim 29 has also been rejected under 35 U.S.C. 112, second paragraph. Since this claim is currently withdrawn from prosecution, it has been canceled.

The Examiner has rejected claims 1, 4-6, 24-28, and 36 under 35 U.S.C., first paragraph. It is the Examiner's position that the specification does not teach the reaction conditions and the starting materials used for making the claimed compounds except in the examples on pages 52-79 with well defined chemical structures in claims 2-3. Applicants have amended claim 1 and claims depending from it to reflect more closely the exemplified compounds falling within the restriction language.

The claims (1, 4, 5, 7-12, 26-28, 36, and 42-44) have been rejected under 35 U.S.C. 102 by the Examiner. According to the Examiner, the claims are anticipated by Burkholder et al. (WO 9426735). Burkholder et al. discloses compounds in which X is  $(CH_2)_2$ . Applicants have amended their independent claim (claim 48) such that X is  $(CH_2)_3$ . It is respectfully pointed out that this allegedly "small" molecular change leads to a change in the biological activity. Burkholder's compounds are tachykinin receptor antagonists as compared to Applicants' compounds which are CCR5 inhibition antivirals for use to treat, for example, HIV. Therefore, this rejection of the claims under 35 U.S.C. 102 should be reconsidered and withdrawn.

Additionally, claims 1-5, 7-12, 15-22, 24, 28, 36, and 42-44 have been rejected under 35 U.S.C. 103 by the Examiner. The position of the Examiner is that Applicants' claims are unpatentable over Burkholder et al. in view of the online version Wikipedia

on heterocyclic compounds where furan and pyridine are exemplified as closely related heterocyclic compounds.

It is Applicants' position that the Examiner has not made a prima facie case of obviousness. The present application has a priority date of December 13, 2002 with an international filing date of December 12, 2003. The priority date of the Wikipedia article submitted by the Examiner is not known. The Wikipedia article only states that it was last "modified" on 16:13 , 9 June 2006. Accordingly, it is not prior art to Applicants' patent application. The Burkholder et al. reference is not sufficient alone to support this rejection. Therefore, this rejection of the claims is improper and should be withdrawn.

The Examiner has stated that claims 1-5, 7-12, 15-22, 24, 28, 36, and 42-44 of the present application are provisionally rejected on the ground of nonstatutory double patenting over claims 1-26, 31, and 37-39 of Applicants' copending U.S. Patent Application No. 2006/0052595 (Serial No. 10/538,145). Applicants believe that this assertion by the Examiner is incorrect. In Applicants present application (U.S. Ser. No. 10/358,134) Ring B is a "4 or 5 membered ring containing a depicted nitrogen". In U.S. Ser. No. 10/538,145, Ring B is defined by the structure as a 6-membered ring. Also by the language of claim 1, Ring B also has an oxygen atom in addition to the depicted nitrogen. Accordingly, this rejection of the application should be reconsidered and withdrawn.

In view of the foregoing amendments and remarks, it is respectfully requested that the claims be reconsidered and allowed.

Respectfully submitted,

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